

1-1 By: Nelson, Davis S.B. No. 469
1-2 (In the Senate - Filed February 1, 2011; February 14, 2011,
1-3 read first time and referred to Committee on Transportation and
1-4 Homeland Security; April 4, 2011, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 9,
1-6 Nays 0; April 4, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 469 By: Watson

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the collection of unpaid tolls by a regional tollway
1-11 authority.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 366.003, Transportation Code, is amended
1-14 by adding Subdivision (10-a) to read as follows:

1-15 (10-a) "Toll assessment facility" means a location on
1-16 a turnpike project where a vehicle that is driven or towed through
1-17 the facility is assessed a toll for the use of the project.

1-18 SECTION 2. Section 366.178, Transportation Code, is amended
1-19 by amending Subsections (a) through (g), (i), and (i-1) and adding
1-20 Subsections (b-1), (b-2), (b-3), (b-4), (d-1), (d-2), (d-3), and
1-21 (f-1) to read as follows:

1-22 (a) A motor vehicle other than an authorized emergency
1-23 vehicle, as defined by Section 541.201, that passes through a toll
1-24 assessment [collection] facility, whether driven or towed, shall
1-25 pay the proper toll. The exemption from payment of a toll for an
1-26 authorized emergency vehicle applies regardless of whether the
1-27 vehicle is:

- 1-28 (1) responding to an emergency;
1-29 (2) displaying a flashing light; or
1-30 (3) marked as a police or emergency vehicle.

1-31 (b) A person who fails or refuses to pay a toll provided for
1-32 the use of a project is liable for a fine not to exceed \$250, plus
1-33 any [an] administrative fees [fee] incurred in connection with the
1-34 violation.

1-35 (b-1) As an alternative to requiring payment of a toll at
1-36 the time a vehicle is driven or towed through a toll assessment
1-37 facility, the authority may use video recordings, photography,
1-38 electronic data, transponders, or other tolling methods to permit
1-39 the registered owner of the nonpaying vehicle to pay the toll at a
1-40 later date.

1-41 (b-2) If the authority does not collect the proper toll at
1-42 the time a vehicle is driven or towed through a toll assessment
1-43 facility, the authority may send an invoice by first class mail to
1-44 the registered owner of the vehicle not later than the 30th day
1-45 after the date the vehicle is driven or towed through the facility.
1-46 The invoice may include one or more tolls the registered owner of
1-47 the nonpaying vehicle failed to pay for use of the project and must
1-48 specify the date by which the toll or tolls must be paid. Except as
1-49 provided by Subsection (b-3), the registered owner shall pay the
1-50 unpaid tolls included in the invoice not later than the 30th day
1-51 after the date the invoice is mailed.

1-52 (b-3) If the address to which the invoice issued under
1-53 Subsection (b-2) is mailed to the registered owner is determined to
1-54 be incorrect, the registered owner shall pay the invoice not later
1-55 than the 30th day after the date the invoice is mailed to the
1-56 correct address.

1-57 (b-4) If the registered owner of the nonpaying vehicle fails
1-58 to pay the unpaid tolls included in the invoice mailed under
1-59 Subsection (b-2) or (b-3) by the date specified in the invoice, the
1-60 authority shall send the first notice of nonpayment by first class
1-61 mail to the registered owner of the nonpaying vehicle as provided by
1-62 Subsection (d).

1-63 (c) On [If a person fails to pay the proper toll.

2-1 ~~[(1) on]~~ issuance of the first ~~[a]~~ notice of
 2-2 nonpayment, the registered owner of the nonpaying vehicle shall pay
 2-3 both the unpaid tolls included in the invoice and an ~~[the proper~~
 2-4 ~~toll and the]~~ administrative fee. The authority may charge only one
 2-5 administrative fee of not more than \$25 for the first notice of
 2-6 nonpayment that is sent to the registered owner of the nonpaying
 2-7 vehicle~~, and~~

2-8 ~~[(2) an authority may charge an administrative fee of~~
 2-9 ~~not more than \$100 to recover the cost of collecting the unpaid~~
 2-10 ~~toll].~~

2-11 (d) Unless an authority requires additional time to send a
 2-12 notice of nonpayment because of events outside the authority's
 2-13 reasonable control, the authority shall send the first notice of
 2-14 nonpayment not later than the 30th day after the date the 30-day
 2-15 period expires for the registered owner to pay the invoice issued
 2-16 under Subsection (b-2) or (b-3). The first notice ~~[Notice]~~ of
 2-17 nonpayment ~~[under Subsection (c)(1)]~~ shall ~~[be sent by first-class~~
 2-18 ~~mail and may not]~~ require payment of the unpaid tolls included in
 2-19 the invoice ~~[the proper toll]~~ and the administrative fee before the
 2-20 30th day after the date the first notice of nonpayment is mailed.
 2-21 ~~[The registered owner shall pay a separate toll and administrative~~
 2-22 ~~fee for each nonpayment.]~~

2-23 (d-1) If the registered owner of the nonpaying vehicle fails
 2-24 to pay the unpaid tolls and the administrative fee by the date
 2-25 specified in the first notice of nonpayment, the authority shall
 2-26 send a second notice of nonpayment by first class mail to the
 2-27 registered owner of the nonpaying vehicle. The second notice of
 2-28 nonpayment must specify the date by which payment must be made and
 2-29 may include an invoice for:

2-30 (1) the unpaid tolls and administrative fee included
 2-31 in the first notice of nonpayment; and

2-32 (2) an additional administrative fee of not more than
 2-33 \$25 for each unpaid toll included in the notice, not to exceed a
 2-34 total of \$200.

2-35 (d-2) If the registered owner of the nonpaying vehicle fails
 2-36 to pay the amount included in the second notice of nonpayment by the
 2-37 date specified in that notice, the authority shall send a third
 2-38 notice of nonpayment by first class mail to the registered owner of
 2-39 the nonpaying vehicle. The third notice of nonpayment must specify
 2-40 the date by which payment must be made and may include an invoice
 2-41 for:

2-42 (1) the amount included in the second notice of
 2-43 nonpayment; and

2-44 (2) any third-party collection service fees incurred
 2-45 by the authority.

2-46 (d-3) The authority may contract, in accordance with
 2-47 Section 2107.003, Government Code, with a person to collect unpaid
 2-48 tolls and administrative fees before referring the matter to a
 2-49 court with jurisdiction over the offense.

2-50 (e) If the registered owner of the vehicle fails to pay the
 2-51 third notice of nonpayment by the date ~~[proper toll and~~
 2-52 ~~administrative fee in the time]~~ specified in ~~[by]~~ the notice, the
 2-53 owner may ~~[shall]~~ be cited by the Department of Public Safety as for
 2-54 other traffic violations as provided by law, and the owner shall pay
 2-55 a fine of not more than \$250 for each nonpayment of a toll.

2-56 (f) Except as provided by Subsection (f-1), in ~~[In]~~ the
 2-57 prosecution of a violation for nonpayment, proof that the vehicle
 2-58 passed through a toll assessment ~~[collection]~~ facility and that the
 2-59 applicable toll was not paid before the date specified in the third
 2-60 notice of nonpayment, ~~[without payment of the proper toll]~~ together
 2-61 with proof that the defendant was the registered owner or the driver
 2-62 of the vehicle when the failure to pay occurred, establishes the
 2-63 nonpayment of the registered owner. The proof may be by testimony
 2-64 of a peace officer or authority employee, video surveillance, or
 2-65 any other reasonable evidence, including a copy of the rental,
 2-66 lease, or other contract document or the electronic data provided
 2-67 to the authority under Subsection (i) that shows the defendant was
 2-68 the lessee of the vehicle when the underlying event of nonpayment
 2-69 occurred.

3-1 (f-1) Nonpayment by the registered owner of the vehicle may
3-2 be established by:

3-3 (1) a copy of a written agreement between the
3-4 authority and the registered owner for the payment of unpaid tolls
3-5 and administrative fees; and

3-6 (2) evidence that the registered owner is in default
3-7 under the agreement.

3-8 (g) The court of the local jurisdiction in which the
3-9 violation occurs may assess and collect the fine in addition to any
3-10 court costs. The court shall collect the unpaid tolls, [proper toll
3-11 and] administrative fees, and third-party collection service fees
3-12 incurred by the authority on or before the fines and court costs are
3-13 collected by the court [fee] and forward the toll and fees [fee] to
3-14 the authority. Payment of the unpaid tolls, administrative fees,
3-15 and third-party collection service fees by the registered owner may
3-16 not be waived by the court unless the court finds that the
3-17 registered owner of the vehicle is indigent.

3-18 (i) A registered owner who is the lessor of a vehicle for
3-19 which an invoice is mailed under Subsection (b-2) or (b-3) [~~a notice~~
3-20 ~~of nonpayment has been issued]~~ is not liable if, not later than the
3-21 30th day after the date the invoice [notice of nonpayment] is
3-22 mailed, the registered owner provides to the authority:

3-23 (1) a copy of the rental, lease, or other contract
3-24 document covering the vehicle on the date of the nonpayment, with
3-25 the name and address of the lessee clearly legible; or

3-26 (2) electronic data, other than a photocopy or scan of
3-27 a rental or lease contract, that contains the information required
3-28 under Sections 521.460(c)(1), (2), and (3) covering the vehicle on
3-29 the date of the nonpayment under this section.

3-30 (i-1) If the lessor timely provides the required
3-31 information under Subsection (i), the lessee of the vehicle on the
3-32 date of the violation is considered to be the registered owner of
3-33 the vehicle for purposes of this section, and the authority shall
3-34 follow the procedures provided by this section as if the lessee were
3-35 the registered owner of the vehicle, including sending an invoice[
3-36 ~~The lessee is subject to prosecution for failure to pay the proper~~
3-37 ~~toll if the authority sends a notice of nonpayment]~~ to the lessee by
3-38 first-class mail not later than the 30th day after the date of the
3-39 receipt of the information from the lessor.

3-40 SECTION 3. The change in law made by this Act applies only
3-41 to an offense committed on or after the effective date of this Act.
3-42 An offense committed before the effective date of this Act is
3-43 governed by the law in effect when the offense was committed, and
3-44 the former law is continued in effect for that purpose. For
3-45 purposes of this section, an offense was committed before the
3-46 effective date of this Act if any element of the offense occurred
3-47 before that date.

3-48 SECTION 4. This Act takes effect September 1, 2011.

3-49

* * * * *